

PATENT COOPERATION TREATY

From the
INTERNATIONAL SEARCHING AUTHORITY

To:

see form PCT/ISA/220

PCT

WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY (PCT Rule 43bis.1)

Date of mailing
(day/month/year) see form PCT/ISA/210 (second sheet)

Applicant's or agent's file reference
see form PCT/ISA/220

FOR FURTHER ACTION
See paragraph 2 below

International application No.
PCT/US2005/001168

International filing date (day/month/year)
14.01.2005

Priority date (day/month/year)
16.01.2004

International Patent Classification (IPC) or both national classification and IPC
C08L13/02, C08L33/02, D04H1/64

Applicant
OMNOVA SOLUTIONS INC.

1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☐ Box No. II Priority
- ☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☐ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☐ Box No. VII Certain defects in the international application
- ☐ Box No. VIII Certain observations on the international application

2. **FURTHER ACTION**

If a demand for international preliminary examination is made, this opinion will usually be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA"). However, this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of three months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA:



European Patent Office
D-80298 Munich
Tel. +49 89 2399 - 0 Tx: 523655 epmu d
Fax: +49 89 2399 - 4465

Authorized Officer

Simmerl, R

Telephone No. +49 89 2399-8515



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AP2005001168 12 JUL 2006

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.
PCT/US2005/001168

Box No. I Basis of the opinion

1. With regard to the language, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.
☐ This opinion has been established on the basis of a translation from the original language into the following language , which is the language of a translation furnished for the purposes of international search (under Rules 12.3 and 23.1(b)).
2. With regard to any nucleotide and/or amino acid sequence disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
 - a. type of material:
☐ a sequence listing
☐ table(s) related to the sequence listing
 - b. format of material:
☐ in written format
☐ in computer readable form
 - c. time of filing/furnishing:
☐ contained in the international application as filed.
☐ filed together with the international application in computer readable form.
☐ furnished subsequently to this Authority for the purposes of search.
3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4. Additional comments:

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.
PCT/US2005/001168

Box No. V Reasoned statement under Rule 43*b/s*.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	
	No: Claims	1-8
Inventive step (IS)	Yes: Claims	
	No: Claims	1-8
Industrial applicability (IA)	Yes: Claims	1-8
	No: Claims	

2. Citations and explanations

see separate sheet

**WRITTEN OPINION OF THE
 INTERNATIONAL SEARCHING
 AUTHORITY (SEPARATE SHEET)**

PCT/US2005/001168

Ad section V.:

1. The subject-matter of the claims is not novel over the documents cited in the search report (Art. 33(2) PCT):

D1: US-A-5 166 259 (SCHMEING ET AL) 24 November 1992 (1992-11-24)
 D2: US 2002/028858 A1 (DIEHL DAVID F ET AL) 7 March 2002 (2002-03-07)
 D3: WO 01/46283 A (OMNOVA SOLUTIONS INC) 28 June 2001 (2001-06-28)
 D4: US-B1-6 291 573 (PAKUSCH JOACHIM ET AL) 18 September 2001 (2001-09-18)
 D5: US-A-5 786 100 (TSURUOKA ET AL) 28 July 1998 (1998-07-28)
 D6: US-A-5 008 326 (STACK ET AL) 16 April 1991 (1991-04-16)

(citations see search report).

- 1.1 It should be noted that the specific use of the polymer latex as binder composition (claim 1) would not make the polymer novel as such. The same applies to a non-woven layer which is used in a diaper (claim 8).
- 1.2 In some of the above documents the Tg-values of the polymers are missing. Since the prior art polymers have the same monomer compositions as the claimed ones also their Tg-values should be in the claimed range.
- 1.3 Polymers having the claimed gel content are apparently obtained by radically polymerizing a monomer feed containing at least 35% butadiene (see description, page 4, lines 15-17; see also e.g. D3, page 16, lines 7-12 and the examples of the present application).
2. Inventive step (Art. 33(3) PCT): not given since the claims are not novel.
3. Industrial applicability (Art. 33(4) PCT): o.k.